

UNITED STATES DISTRICT COURT
DISTRICT OF SOUTH DAKOTA

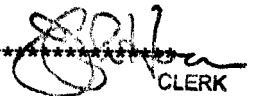
FILED
MAY 27 2009

CENTRAL DIVISION

UNITED STATES OF AMERICA, *
Plaintiff, *
-VS- *
ORVILLE O. WALKING EAGLE, JR., *
Defendant. *

CR. 09-30031-CBK

REPORT AND RECOMMENDATION
FOR DISPOSITION OF DEFENDANT'S
MOTION TO SUPPRESS

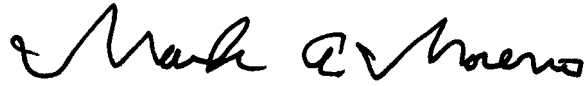

CLERK

Defendant, Orville O. Walking Eagle, Jr., has filed a Motion to Suppress, Docket No. 17. Because Defendant's Motion is a dispositive one, this Court is only authorized to determine the same on a report and recommendation basis. See 28 U.S.C. §636(b)(1). Based on the findings, authorities and legal discussion made on the record at the May 27, 2009 hearing, the Court hereby

RECOMMENDS that Defendant's Motion be granted in part and denied in part. The motion should be granted to the extent that it seeks to suppress, as substantive evidence at trial, the pre-arrest statements Defendant made to tribal officers at Valencia Guerue's residence on January 11, 2009, and his post-arrest statements to the FBI agent and criminal investigator concerning his tribal enrollment. Insofar as the Motion seeks to suppress these statements for impeachment purposes and seeks to suppress other statements made by Defendant and evidence obtained by tribal and federal officers that same day, the Motion should be denied.

Dated this 27th day of May, 2009, at Pierre, South Dakota.

BY THE COURT:

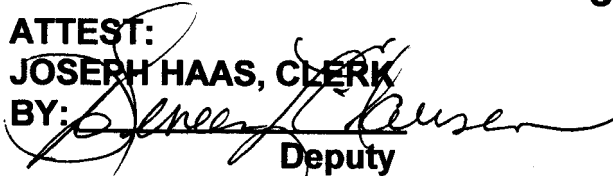


**MARK A. MORENO
UNITED STATES MAGISTRATE JUDGE**

ATTEST:

JOSEPH HAAS, CLERK

BY:



Deputy

(SEAL)

NOTICE

Failure to file written objections to the within and foregoing Report and Recommendations for Disposition within ten (10) days from the date of service shall bar an aggrieved party from attacking such Report and Recommendations before the assigned United States District Judge. See 28 U.S.C. § 636(b)(1).